# STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)		
GUADALUPE CARDENAS,	)		
Complainant, and AIR SERV CORPORATION, Respondent.	) ) ) ) )	CHARGE NO(S): EEOC NO(S): ALS NO(S):	2006CF3571 N/A 07-944
	NOTICE		
You are hereby notified that the III exceptions to the Recommended Order pursuant to Section 8A-103(A) and/or 85 5300.910 of the Commission's Procedural become the Order and Decision of the Com	and Decision B-103(A) of t Rules, that F	n in the above named the Illinois Human Rig	case. Accordingly
STATE OF ILLINOIS HUMAN RIGHTS COMMISSION	)	Entered this 7th da	y of January 2011
		KEITH CHAMBERS	······································

## STATE OF ILLINOIS HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
GUADALUPE CARDENAS,	)	
Complainant,	}	N. 00000F3574
and	) EEOC 1	
AIR SERV CORPORATION,	) ALS No	- -
Respondent.	) Judge i	_ester G. Bovia, Jr.

### RECOMMENDED ORDER AND DECISION

This matter has come to be heard on Respondent's Motion to Dismiss for Lack of Jurisdiction ("Motion"). Complainant, who is proceeding *pro se*, filed a response.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record. Moreover, the Department was duly served with the Motion and given an opportunity to be heard. Accordingly, this matter is now ready for disposition.

#### **FINDINGS OF FACT**

The following facts were derived from the record file in this matter:

- 1. On June 22, 2006, Complainant filed a charge of discrimination against Respondent, alleging discrimination based on race, ancestry, and national origin. Respondent denies the allegations.
- On October 19, 2007, the Department dismissed Complainant's charge for lack of substantial evidence. Complainant filed no request for review of the Department's dismissal order.
- 3. On December 26, 2007, Complainant filed a *pro se* complaint with the Commission based on the allegations in the dismissed charge.

#### CONCLUSIONS OF LAW

- 1. The Department's dismissal order was a final order dismissing Complainant's charge.
- 2. The Commission has no jurisdiction to consider the *pro se* complaint filed by Complainant.
- 3. The complaint must be dismissed as a matter of law.

#### DISCUSSION

Respondent bases its Motion on section 7A-102(G)(1) of the Illinois Human Rights Act, which provides that, upon completing its investigation of the charge, the Department "shall either issue and file a complaint . . . or shall order that no complaint be issued and dismiss the charge with prejudice without any further right to proceed except in cases in which the order was procured by fraud or duress." 775 ILCS 5/7A-102(G)(1). A complainant may appeal a dismissal order by filing a request for review with the Department's Chief Legal Counsel within 30 days of receipt of the dismissal order. 775 ILCS 5/7A-102(C)(4). After the Department dismisses a charge, the Commission has no jurisdiction to consider a complaint based on the allegations in that dismissed charge. <u>Davis and Klines</u>, IHRC, ALS No. 04-483, March 1, 2005.

In this case, Complainant filed her charge on June 22, 2006. The Department dismissed Complainant's charge for lack of substantial evidence on October 19, 2007, and Complainant filed no request for review. Complainant filed her *pro se* complaint based on the allegations in the dismissed charge on December 26, 2007. Because of the Department's dismissal of Complainant's charge, and because Complainant has offered no evidence of fraud or duress, the Commission clearly has no jurisdiction over the complaint. As a result, the complaint must be dismissed as a matter of law.

#### RECOMMENDATION

Based on the foregoing, the Commission lacks jurisdiction over this matter, and Respondent is entitled to a recommended order of dismissal as a matter of law. Accordingly, it

is red	commended	that:	1)	Respondent's	Motion	be	granted;	and	2) tł	he	complaint	be	dismissed
with p	orejudice.												

HUMAN RIGHTS COMMIS	SION
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BY	•

LESTER G. BOVIA, JR.
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: April 19, 2010